IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 8TH OCTOBER 2007 / 16TH ASWINA 1929

Bail Appl..No. 5995 of 2007()

CRMP.1944/2007 of DISTRICT COURT, KOTTAYAM
CRIME NO. 219/07 ON THE FILE OF KUMARAKOM POLICE STATION

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PETITIONERS/ACCUSED

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1. GRACY VARKEY, AGED 43,
W/O. CHACKO VARKEY, KAVIL MANNANAM, KOTTAYAM.

2. SIJO JACOB, AGED 22, S/O. CHACKO VARKEY,
KAVIL MANNANAM, KOTTAYAM.

3. SANTHOSH VARKEY, AGED 19, S/O. CHACKO
VARKEY, KAVIL MANNANAM, KOTTAYAM.

BY ADV. SRI.SURIN GEORGE IPE

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REP. BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 08/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 5995 OF 2007

Dated this the 8th day of October, 2007

ORDER

Application for anticipatory bail. The petitioners are the husband of the de facto complainant, his brother and mother-in-law. The marriage took place on 14/6/07. The de facto complainant was allegedly vexed with demands for dowry. Physical cruelty of culpable variety was also allegedly inflicted on her. The First Information Statement was recorded on the basis of a complaint recorded from the de facto complainant who was in the hospital at the relevant time. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. There is problem of mal adjustments in marriage for the newly wedded wife. Fanciful and exaggerated allegations are being raised against

the petitioners because of such strain in the matrimony. The de facto complainant has not suffered any injury. In these circumstances, anticipatory bail may be granted to the petitioners, it is prayed.

3. The learned Public Prosecutor does not oppose the application. The learned Public Prosecutor submits that appropriate conditions may be imposed in the interests of a fair, efficient and expeditious investigation. The learned Public Prosecutor points out that the victim has suffered no external injury indicative of the alleged physical cruelty meted out to her.

4. I reckon the stand taken by the learned Public Prosecutor to be fair and reasonable. Arrest and incarceration of the petitioners is likely to mar the matrimonial tie beyond repair. I am satisfied that, subject to appropriate conditions to be imposed in the interests of a fair, efficient and expeditious investigation, the petitioners can be granted anticipatory bail.

5. In the result, this petition is allowed. Following directions are issued under Sec.438 of the Cr.P. C.:

(i) The petitioners shall appear before the learned

Magistrate having jurisdiction at 11 a.m. on 15/10/07. They shall be released on regular bail on their executing bonds for Rs.25,000/- each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(ii) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m. and 3 p.m. on 16/10/07 and 17/10/07 and thereafter on all Mondays and Fridays between 10 a.m. and 12 noon for a period of two months. Subsequently, they shall so make themselves available for interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so.

(iii) If the petitioners do not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioners and deal with them in accordance with law as if these directions were not issued at all;

(iv) If the petitioners were arrested prior to their surrender

on 15/10/07 as directed in clause (i) above, they shall be released on their executing bonds for Rs.25,000/- each without any sureties undertaking to appear before the learned Magistrate on 15/10/07.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge